

**Minutes for the
Seminole County Board of Adjustment
January 27, 2003, 6:00 P.M.**

Members present: Wes Pennington, Dan Bushrui, Acting Chairman, Lila Buchanan, and Alan Rozon

Members absent: Mike Hattaway

Alternate present: Bob Goff

Also present: Earnest McDonald, Principal Coordinator, Karen Consalo, Deputy County Attorney, John Thomson, Principal Coordinator, Cynthia Sweet, Planner, Cathleen Consoli, Planner, Jeff Hopper, Senior Planner, Kathy Fall, Senior Planner, Bernadette Smith, Senior Technician

Acting Chairman Bushrui called the meeting to order at 6:00 P.M. He then read for the audience the manner in which the meeting is conducted and the method of appeal of any decision made at the meeting.

Kathy Fall introduced the consent items and requested that they be approved.

Bob Goff requested that item 2 be removed from the consent items and considered separately. Item 2 was removed from the Consent Agenda.

Earnest McDonald requested that item 3 be removed from the Consent Agenda as well. It was also removed to the regular items.

Consent Agenda:

Variances:

**** denotes Special Exceptions**

1. **DON KING** - Cass Ave (lot 1); A-1 (Agriculture); request for (1) minimum lot size variance from 43,560 square feet to 12,100 square feet; (2) minimum lot width variance from 150 feet to 110 feet; (3) front yard setback variance from 50 feet to 25 feet; (4) side street setback variance from 50 feet to 25 feet; and (5) side yard setback variance from 10 feet to 7.5 feet located on the southwest corner of Palm Drive and Cass Avenue. (BV2002-165)

District 2 – Morris

Earnest McDonald, Principal Coordinator

2. **ATLANTIC DEVELOPMENT CORPORATION; FRANCES SANTA DONATO**; Marjorie Blvd (lot 6); R-1 (Single-Family Dwelling); request for (1) minimum lot size variance from 8,400 square feet to 7,150 square feet; and (2) minimum lot width variance from 70 feet to 65 feet; located

on the south side of Marjorie Blvd., approximately 349 feet east of the Middle Lane and Marjorie Blvd. intersection; (BV2002-188)
District 4 – Henley Earnest McDonald, Principal Coordinator

This item was removed from the consent agenda and considered during the regular part of the meeting.

- 3. DANIEL & DEBORAH DEAROLPH** - 3336 Foxcroft Circle; PUD (Planned Unit Development); rear yard setback variance from 20 feet to 17 feet; located on the northwest side of Foxcroft Circle, approximately 353 feet southwest of Foxton Lane. (BV2002-172)
District 1 –Maloy Cynthia Sweet, Planner

This item was removed from the Consent Agenda and heard with other items on the Regular Agenda.

Mr. McDonald stated that the applicants have not demonstrated a hardship and therefore Staff recommends denial.

Mr. Dearolph stated that he wanted a screen room for his children. He stated that the house is acclimated so that the afternoon sun shines on the rear of the house. The lot size is irregular. The yard is fenced in, he is placing the porch in the only place he can because of the design of the house. Mr. Dearolph stated that he had the approval of his homeowners association and that his neighbors had signed his petition stating that they had no objection to the project.

Mr. Goff pointed out that there were different ways of measuring the distance. He felt some measuring was inconsistent.

Mr. Pennington made the motion to approve the variance citing the hardship as the configuration of the lot.

Mr. Goff seconded the motion.

The variance was approved by a vote of 5 – 0.

- 4. LAURIE ANN SEVERANCE** - 833 W Settlers Loop, Geneva; A-5 (Agriculture) replacement of an existing mobile home located on the east side of Settlers Loop, approximately .25 miles south of Osceola Road. (BM2002-026)
District 2 – Morris Cynthia Sweet, Planner

5. **CHRISTOPHER STOKES** - 213 Clearview Rd; A-1 (Agriculture); lot size variance from 43,560 square feet to 40,297 square feet; located on the east side of Clearview Road, approximately 0.1 mile north of Kiwanis Circle. (BV2002-190)
District 1 – Maloy Jeff Hopper, Senior Planner
6. ****DONNA M. PIERCE** - 1968 Lakeview Ave; A-5 (Agriculture); zoning special exception to board up to 10 dogs; located on Lake View Road, approximately 328 feet south of Lake Mills Road. (BS2002-025)
District 1 – Maloy Kathy Fall, Senior Planner
7. ****GEORGE N BLACKMORE** - 495 First St; A-5 (Agriculture); special exception to board up to 10 dogs; located at the northeast corner of Geneva Heights Road and 1st St. (BS2002-026)
District 2 – Morris Kathy Fall, Senior Planner
8. ****TOM GRIFFIN/McCREE, INC** - 9905 S. US 17-92; C-2 (Retail Commercial); A-1 (Agriculture); request to add 4,673 sq ft for an addition and parking; facing west on 17-92, approximately 364 feet west of Cherrywood Drive. (BS2002-027)
District 4 – Henley Kathy Fall, Senior Planner
9. **D. MARILYN WALTON** - 749 Lake Dr; R-2 (One and Two Family Dwelling) front yard setback variance from 25 feet to 19 feet for a proposed duplex located on the west side of Lake Drive, approximately 110 feet south of east 4th Street (BV2002-181)
District 1 – Maloy Kathy Fall, Senior Planner
10. **MICHAEL & LAURIE BERLANT** – 708 Riverbend Blvd; PUD (Planned Unit Development); side street setback variance from 25 feet to 23.86 feet; side yard setback from 10 feet to 8.51 feet for existing home; located on the southeast corner of Riverbend Boulevard and Sweetwater Island Drive. (BV2002-189)
District 3 – Van Der Weide Kathy Fall, Senior Planner

Wes Pennington made a motion to approve the Consent Agenda, less numbers 2 and 3.

Bob Goff seconded the motion.

The Consent Agenda was approved by a unanimous vote. (5 – 1)

Items Requested to be Continued

1. **TIMOTHY BROOKS** - 322 Sandy Top Lane; A-5 (Agriculture) to place a mobile home; located approximately .1 miles north of Sandy Top Lane and .3 miles west of SR 426. (BM2002-027)

District 2 – Morris

John Thomson, Principal Coordinator

Kathy Fall requested that this item be continued until the February 24, 2003 meeting.

Wes Pennington made a motion to continue this item as requested.

Bob Goff seconded the motion.

The item was continued to the February 24, 2003 meeting by unanimous vote.

CONTINUE TO FEBRUARY 24, 2003

Earnest McDonald read the criteria used in consideration of the granting of a variance from the Seminole County Land Development Code.

Continued Items From December 16, 2002

1. **AUGUST & LEEONTINE BONI** – 270 East 5th St.; fence height variance from 3 feet to 6 feet within 25 feet of a street, on property zoned R-1A (Single-Family Dwelling), located at the southwest corner of East 5th Street and Avenue E. (BV2002-148)

District 1 – Maloy

Cathleen Consoli, Planner

Cathleen Consoli presented the application of the continued item stating that the Code Enforcement Department had cited the owners for having their fence in a public right of way. Ms. Consoli stated that the fence has now been relocated. Staff recommends denial since there has been no demonstration of hardship.

Harvey Alber, Attorney for the owners. He stated that the Boni's have owned the property with the fence in its current position since 1963. He stated that the Boni's asked for a building permit to replace the fence that had been in its old location for 35 years. When they were told that the fence was in a public right of way the Bonis moved the fence to its current location, on their side yard, adjoining their patio, facing the side street. Mr. Alber showed photos of how the fence had been acclimated previously. He stated that the fence was for privacy purposes for his patio. Mr. Boni needs a 6 foot height to surround the patio.

Dr. Buchanan asked that the application was for a fence height from 3 feet to 6 feet.

Mr. Alber stated that the height was the issue now.

Dr. Buchanan stated that she would be in favor of granting the variance.

Mr. Goff asked Mr. Alber if the fence was interfering with site lines for public safety.

Mr. Alber said that it is not.

Mr. Goff asked how far the house was from the side lot line.

Mr. Alber stated that it is 20 feet 5 inches from the side lot line.

Mr. Goff then stated that the fence would have to be 5 feet inside the lot line of the house for this not to need a variance.

Mr. Rozon restated the sequence of events leading to the request of the variance. Mr. Alber concurred. Mr. Rozon then stated that he was ready to move on this item.

Dr. Buchanan made a motion to approve the granting of the variance according to the site plan submitted.

Mr. Rozon seconded the motion.

The vote was 5 – 0 in favor of the granting of the variance.

Regular Agenda:

- 1. MICHAEL & LAURIE BERLANT - 708 Riverbend Blvd; PUD (Planned Unit Development); side yard setback variance from 25 feet to 6 ½ feet for an addition, located on the southeast corner of Riverbend Boulevard and Sweetwater Island Drive. (BV2002-155).**

District 3 - Van Der Weide

Kathy Fall, Senior Planner

Kathy Fall introduced the application of the Berlants. She stated that the request did not meet the criteria for the granting of the variance, therefore Staff recommends denial.

Michael Berlant and Laurie Berlant spoke next. Ms. Berlant said they want an addition for an extra bath and two bedrooms

Leslie Farrell, property manager of Sweetwater Oaks, stated in an e-mail read into the record by Ms. Fall that there had been no application to the homeowner association for this project. She stated that there is a 25 foot front and side yard setback in Sweetwater Oaks.

Ms. Berlant stated that she had been in touch with Leslie Farrell, but that she wanted to get Seminole County approval first, before going to the Sweetwater Oaks ARB.

Mr. Goff asked if it is possible to split request.

Mr. Bushrui said that it is the first time that this is being done.

Mr. Goff said that there is one half of the original request already granted.

Kathy Fall stated that the existing home is in 2 of the setbacks. The Code states that the Berlant's could not get a variance on a non-conforming house until it got the variance in the Consent Agenda portion of the meeting. Now the second variance can be considered.

Mr. Goff made a motion to approve the variance.

Dr. Buchanan stated that the Homeowners Association would have a problem with their rules since the house had been built outside of their setback rules in the first place.

Mr. Bushrui called for a second to Mr. Goff's motion for approval.

The motion died for want of a second.

Mr. Rozon asked what would happen to the homeowner if the second variance is denied.

Ms. Fall stated that the homeowner now has the right to ask for a variance on their house.

Mr. Bushrui stated that the code required a hardship to be demonstrated.

Mr. Rozon stated that he was wondering if this is the minimum variance necessary for the project and if the granting of the variance would confer any special privileges to the Berlants.

Mr. Bushrui asked if the Berlant's neighbors had complained about this.

Mr. Berlant stated that no one had complained.

Mr. Pennington asked how much distance was from the street to the new addition.

Ms. Fall stated that the addition would be 6.5 feet from the road right of way. There is a substantial area of right of way.

Mr. Pennington stated that it would be at least 15 feet.

Mr. Pennington made a motion to approve the variance.

Mr. Rozon seconded the motion.

The vote was 5 – 0 to approve the granting of the variance.

- 2. REX & SHELLEY PRICE** - 5200 Ardmore Drive; R-1 (Single-Family Dwelling); rear yard setback variance from 30 feet to 19 feet; located on the west side of Ardmore Drive, approximately 277 feet north of the intersection of Ardmore Drive and Betty Street. (BV2002-163)

District 1 – Maloy

John Thomson, Principal Coordinator

John Thompson introduced the variance request on an existing screen room. He stated that the home and screen room were built in 1979. Mr. Thomson recommended approval subject to two conditions: 1) The variance shall only apply to the existing porch. 2) All materials used shall be consistent with materials used for a screen enclosure.

Mr. Price stated that there is an 8 inch slope on the patio for drainage. He would also like to use something other than aluminum. Mrs. Price stated that they wanted to use wood for the enclosure and have a vaulted roof.

No one spoke from the audience on the item.

Mr. Thomson stated that the character of the structure should be one of a screen porch.

Dr. Buchanan asked if this screen porch could be enclosed in the future by this variance.

Mr. Thomson said no, they could not.

Dr. Buchanan asked if the applicant can make the project with a flat roof.

Mr. Price stated that he needed a pitch to the roof to control water.

Mr. Pennington made a motion to allow a screened in porch with a pitched roof, guttered, and a slab replacement for the porch to be made in wood or aluminum with the same footprint as the current structure.

Dr. Buchanan seconded the motion.

The motion carried by a vote of 5 – 0. The variance was granted with the conditions stated in the motion.

- 3. ELISA GOMEZ** - 2780 Wassum Trail; A-1 (Agriculture); side yard setback variance from 10 feet to 5 feet for a detached accessory

building; located on the west side of Wassum Trail, approximately 0.3 miles northeast of the Breaks Lane and Wassum Trail intersection. (BV2002-173)

District 2 – Morris

John Thomson, Principal Coordinator

Mr. Thomson introduced the application for a pre-existing 34 by 16 feet garage. He stated that the structure had been unpermitted and not inspected. It encroaches 10 feet into the side yard setback. Staff recommends denial, due to the lack of hardship. If the variance is granted, Staff recommends the variance only pertain to the garage itself and no other structure.

Theresa Newman stated that the garage was for the a large boat. She had a petition of the surrounding neighbors approving of the project. She stated that the other side of the lot had a septic field and no access for a garage. There are also trees on the lot and other conditions that made the placement of the garage on this side necessary.

Mr. Pennington asked if Ms. Newman and Ms. Gomez knew about building permits.

Ms. Newman said that she did not know.

Ms. Gomez explained that the garage shields her garden business equipment from the view of the neighbors.

Mr. Thomson explained that the building was built without permits or inspections which could take place if the variance was granted.

Ms. Newman stated that inspectors were next door and watched the entire process before telling them that the structure was non-compliant.

Dr. Buchanan stated that she normally dislikes giving a variance "after the fact" but having heard about the presence of the building inspectors on adjacent property, she made a motion to approve the granting of the variance to the structure only.

Mr. Pennington seconded the motion.

In discussion, Mr. Bushrui stated that he could not vote for such a motion since there is a self created hardship.

The vote was 4 – 1 in favor of the granting of the variance. Mr. Bushrui was the dissenting vote.

4. **CHERI & DEREK DICKINSON** - 1193 Amanda Kay Circle; R-AH (Affordable Housing District); rear yard setback from 15' to 13.5' for screen room addition; located on the east side of Amanda Kay Circle & south side of Orange Blvd. (BV2002-179)

District 5 – McLain

Cynthia Sweet, Planner

Earnest McDonald introduced the application and stated that Staff felt the granting of the variance would confer special privilege to the applicant. Staff recommends denial.

Derek Dickinson stated that the depth of the screen room without a variance would have to be 8.5 feet. Another way to do the project would be for the screen room not to have a roof, which would not be as advantageous. It will have a sloping roof for the rain.

No one spoke from the audience.

Mr. Rozon made a motion to approve the granting of the variance as per staff recommendations.

Mr. Pennington seconded the motion.

The vote was 5 – 0 in favor of the motion. The variance was granted.

5. **HUEY & KAREN BLACKMAN JR.** – Lot 1 Block A, Bonaventure Heights 2nd Sec.; RC-1 (Country Homes District); lot size variance from 1 acre to 0.74 acre; located on the southwest corner of Wessex Road and Sand Lake Road. (BV2002-164)

District 3 - Van Der Weide

Jeff Hopper, Senior Planner

(ALREADY APPROVED JULY 20, 1987)

6. **JORGE RODRIGUEZ** - East Alpine St (lot 12); R-1AA (Single-Family Dwelling); lot size variance from 11,700 sq ft to 7,000 sq ft and lot width variance from 90 to 50 feet; located on the south side of East Alpine Street, 100 feet east of Evergreen Avenue. (BV2002-168)

District 4 – Henley

Jeff Hopper, Senior Planner

This request was withdrawn from consideration at the meeting by the applicant.

7. **JORGE RODRIGUEZ** - East Alpine St (lot 13); R-1AA (Single-Family Dwelling); lot size variance from 11,700 to 7,000 sq ft; and lot width variance from 90 to 50 feet; located on the south side of East Alpine Street, 50 feet east of Evergreen Avenue. (BV2002-169)

This request was withdrawn from consideration at the meeting by the applicant.

8. **JORGE RODRIGUEZ** - East Alpine St (lot 14); R-1AA (Single-Family Dwelling); lot size variance from 11,700 to 7,000 square feet; and lot width variance from 90 to 50 feet; located southeast corner of East Alpine Street and Evergreen Avenue. (BV2002-170)

District 4 – Henley

Jeff Hopper, Senior Planner

Mr. Hopper stated that he would be presenting the three requests together since they are identical. He stated that the lots were originally platted as 50 foot lots in 1925, predating current zoning codes. They lack the required width of 90 feet. Mr. Hopper observed that most lots in the neighborhood have been built on by adding width from an adjacent lot or by combining 2 or more lots to build. All but 3 nearby lots have been built on with a width of 75 feet or greater. The policy 3.2 of the Vision 2020 Plan states that in this circumstance lots should be combined to make conforming lot sizes. Staff did not recommend approval since the criteria for granting a variance had not been met.

Jorge Rodriguez stated that Lot 11 had been granted a lot size variance 2 months ago. **Mr. Rodriguez stated that he is withdrawing his requests on Lots 12 and 13 since he could not have water service for the lots.** Lot 14 will have water hook up from Altamonte Springs that will allow him to build up to a 3,300 square foot home. He plans a 2,600 square foot home on the lot with a two car garage. This would be the largest home in the area. He is willing to make a commitment to a 2,600 square foot house. There are seven lots in the area that are larger, but the homes are much smaller.

No one spoke in favor of the request.

Steven Booker of 637 Alpine Street spoke in opposition. He lives across the street and stated that the change would adversely effect the character and value of the neighborhood. He stated that the applicant was using another neighborhood as examples, not the true neighborhood. Mr. Booker stated that he lived on a 100 by 140 foot lot across from the subject. Another neighbor across the street lives on three lots. Mr. Booker stated that Lot 11 was clear cut and does not have the ability of to have septic on the lot. If the density is increased it could effect the quality of well and septic in the area. He has no desire to have City water run down the street at this time. As

for Mr. Rodriguez, Mr. Booker stated that he is a speculator who does not own the property. He can walk away losing nothing. Mr. Booker says that there is plenty of market out there to build on a triple lot.

Joyce Fuirbacker stated that she is the adjoining homeowner with a 100 by 140 foot lot. She does not want the lots to be split and built in small pieces. She stated that she had tried to buy the property previously. She has lived there for 23 years and is very opposed to the small lots being built on.

Carleen Evans lives next to Lot 14 and stated that Evergreen is not a through street. It is all woods. There is no road there. She stated that the signs had been pulled down announcing the public meeting.

Terry Heim lives on Lots 20 and 21. at 641 East Alpine Street.. She has lived in the area all of her life. She submitted 6 letters from area home owners that are in opposition to this variance. She stated that this request is incompatible with the standard of the neighborhood. One letter is from Mr. and Mrs. Richard Pickay, of 892 Lake Avenue. They have 4 lots. Ms. Heim lives on 2 lots. Mr. and Mrs. Alex Corem of 644 E. Alpine Street have a triple lot with a home. Mr. And Mrs. Futch of 648 Alpine Street are also opposed. They are opposed because of the problem of private wells and density of the new proposed small lot and house. Nancy P. Fullerton of 878 E. Alpine Street is also opposed.

Charlie West, Realtor for this property, stated that the lots are owned by an estate in New York. The original intent was to have 4 lots with 2 houses. Evergreen is not a through street. Alpine is an unimproved road that has encroached upon the lots adjacent to the street.

Mr. Rodriguez stated that a property owner has the right to do with the lot what he chooses. Trees are a right of the owner to cut down. He stated that the lot will be for a rental unit. He is asking for a variance on Lot 14. He is willing to add 10 feet from another lot to add to Lot 14.

Karen Consalo, Assistant County Attorney stated that Mr. Rodriguez can ask to withdraw the other two lots and ask for only one lot to be considered.

Mr. Goff stated that the house would be a 15 feet wide. It would not be practical to put a house on this lot. Evergreen is a platted street and would therefore require a 25 foot setback.

Ms. Fall stated that Mr. Goff is correct that the setback of the street is 25 feet from Evergreen.

Mr. Goff pointed out that he may wish to use another lot.

Mr. Bushrui stated that Mr. Rodriguez has withdrawn the requests for the other lots.

Mr. Hopper said that Mr. Rodriguez could continue the request until next month and add a side street setback variance to this.

Mr. Goff said he could rethink all 3 requests.

Mr. Pennington stated that he wanted to settle things tonight.

Dr. Buchanan made a motion to deny the requests for the variances on Lot 14.

Mr. Pennington seconded the motion.

There was no discussion.

The vote was 5 - 0 in favor of the motion. The request for the variances was denied.

- 9. GATE FUEL/TODD PRESSMAN - 670 S County Road 419; PCD** (Planned Commercial District); request for (1) maximum letter height variance from 12 inches to 24.56 inches for canopy structure; (2) ground sign area variance from 36 square feet to 64 square feet for two proposed ground signs; and (3) ground sign height variance from 6 feet to 8 feet for two proposed ground signs; located at the intersection of 5th street and Avenue B, approximately 150 feet east of State Road 419 and 219 feet west of the Avenue C and 7th street intersection. (BV2002-180)

District 1 – Maloy Earnest McDonald, Principal Coordinator

Mr. McDonald introduced the variances requested by Mr. Pressman. He stated that the 2 requested ground signs would be for the Chuolota Plaza. The existing Chuluota Nonresidential Design Overlay limits ground signs to 36 total square feet and a height of 6 feet. Staff does not see that a hardship has been demonstrated. Special privileges would be granted with the granting of a variance. Appropriate signage could be made within the framework of the Code. Staff recommends denial.

Mr. Pressman presented the site plan and stated that CR 419 is a major artery. The exterior was done according to the Overlay design standards. He stated that the design was executed in wood. The sign was reduced from 48 square feet to 36 square feet. This site is allowed 108 square feet of signage between 3 signs. The request is for only 2 signs. The height of the sign is 8 feet. The lettering that would run along the side of the canopy will be 12 inches. They would not be illuminated. In the front along CR 419, the store is 210 feet from the road. The letter height is important for this reason. The location of the site is on a curve of the road with a small window of visibility. There are a lot of woods in the area. People will have to stop quickly to go in there. Mr. Pressman stated that the Staff summary states that the area is a equestrian/pedestrian area as well as for cars. Mr. Pressman stated that this site is not in the center of a residential / equestrian area. He stated that he has reduced his original request.

Dr. Buchanan asked about the location of the signs on the site.

Mr. Pressman showed that one sign will be on 7th Street and the other will be on the 419 side middle driveway.

Mr. Pennington asked about the sign height.

Mr. McDonald explained that the Chuluota Nonresidential Design Overlay standards were more strict than the Seminole County Land Development code.

No one spoke in favor of the request.

Stanley Stevens, Riverwoods Road, stated that he objected to the request. He read that Chulolota Design Overlay portion pertaining to signs says the height of the sign and letters is an ordinance that cannot be deviated from. He was on the committee that made the rules. There are things wrong with the gas station the way it is. It is silver and not in earth colors. It is a big silver box.

Debra Shafer, President of the Southeast Seminole Voters Association stated that she worked hard on the design standards. Mr. Patel who is building the gas station agreed to the design standards. This is the first commercial building built in the area since the 1950s. This is setting precedence for change of the design standards. Every building that comes in after this one is going to ask for a variance. Roofs are supposed to be hip and gabled. It is not. There is good visibility from the road.

Mr. McDonald submitted a letter from Robert and Kathleen Melor in opposition to the request.

Mr. Pressman stated that the Overlay District is working. The design standards have been applied. What you are seeing is something with high standards.

Mr. Goff asked if the applicant had been required to put horse hitching posts out front of the store. Was this for cars only.

Mr. McDonald stated there was no provision for horses. The district standards were adopted after the original request for the mall was granted.

Mr. Goff questioned how you can differentiate a filling station from an equestrian area. He asked if the pedestrians and equestrians were going to escalate.

Mr. McDonald stated that his recommendation was based on the policy.

Mr. Rozon stated that when Mr. Patel applied for the special exception for the fuel dispensing equipment, it was pointed out that the Seminole Trail that runs near the property has equestrian uses. Mr. Rozon stated that he will not be voting for the signage.

Dr. Buchanan stated that she admired the efforts of the people of Chuluota to maintain a rural atmosphere. She will not be supporting the variances.

Dr. Buchanan made a motion to deny the variances requested.

Mr. Goff seconded the motion.

There was no discussion.

The vote was 5 – 0 to deny the request for the variances.

10. ATLANTIC DEVELOPMENT CORPORATION; Marjorie Blvd (lot 15); R-1 (Single-Family Dwelling); request for (1) minimum lot size variance from 8,400 feet to 7,150 feet; and (2) minimum lot width variance from 70 feet to 65 feet; located on the south side of Marjorie Blvd., approximately 175 feet west of the Middle Lane and Marjorie Blvd. intersection; (BV2002-186)

District 4 – Henley Earnest McDonald, Principal Coordinator

- 11. ATLANTIC DEVELOPMENT CORPORATION/FRANCES SANTA DONATO** - Marjorie Blvd (lot 16); R-1 (Single-Family Dwelling); request for (1) minimum lot size variance from 8,400 square feet to 7,150 square feet; and (2) minimum lot width variance from 70 feet to 65 feet; located on the south side of Marjorie Blvd., approximately 105 feet west of the Middle Lane and Marjorie Blvd. intersection; (BV2002-187)

District 4 – Henley Earnest McDonald, Principal Coordinator

- 12. ATLANTIC DEVELOPMENT CORPORATION** - Marjorie Blvd (lot 19); R-1 (Single-Family Dwelling); minimum lot size variance from 8,400 square feet to 7,150 square feet; and (2) minimum lot width variance from 70 feet to 65 feet; located on the north side of Marjorie Blvd. approximately 100 feet west of the Middle Lane and Marjorie Blvd. intersection; (BV2002-184)

District 4 – Henley Earnest McDonald, Principal Coordinator

- 13. ATLANTIC DEVELOPMENT CORPORATION** - Marjorie Blvd (lot 20) R-1 (Single-Family Dwelling); request for (1) minimum lot size variance from 8,400 square feet to 7,150 square feet; and (2) minimum lot width variance from 70 feet to 65 feet; located on the north side of Marjorie Blvd., approximately 163 feet west of the Middle Lane and Marjorie Blvd. intersection. (BV2002-185)

District 4 – Henley Earnest McDonald, Principal Coordinator

Earnest McDonald explained that there is no hardship for the requests for variances on Lots 15 and 16. His recommendation was therefore one to deny the requests. To expedite matters, he stated that he is going to present the requests in a group.

Mr. Bushrui requested that the Board consider Lot 6 first, since it had been on the Consent Agenda.

- 1. ATLANTIC DEVELOPMENT CORPORATION; FRANCES SANTA DONATO;** Marjorie Blvd (lot 6); R-1 (Single-Family Dwelling); request for (1) minimum lot size variance from 8,400 square feet to 7,150 square feet; and (2) minimum lot width variance from 70 feet to 65 feet; located on the south side of Marjorie Street, approximately 349 feet east of the Middle Lane and Marjorie Street intersection; (BV2002-188)

District 4 – Henley Earnest McDonald, Principal Coordinator

Mr. Pennington said that he would like to hear the items that had been removed from Consent.

Mr. McDonald stated that item 2, Lot 6, BV2002-188, has a staff recommendation for approval. Mr. McDonald stated that the hardship criteria had been met, since there is a small lot with no opportunity to acquire more property to bring it into compliance with the code. Without a variance, the applicant cannot make a reasonable use of the property. The property was platted in 1957, prior to the implementation of the R-1 zoning.

Mr. Rozon asked if the landlord lived locally.

Mr. McDonald stated that the owner lives in New York and Atlantic is representing the purchasers.

Jeff Lance, of Atlantic Development Corporation, spoke next. He stated that there are several undeveloped lots in the area, platted in 1957 before zoning was imposed. The R-1 zoning was imposed then. All of the lots in this area are 65 feet wide by 110 feet deep. Every lot in the neighborhood is non-conforming. Mr. Lance stated that his intention is to purchase these lots and put a single family residence on each to be put up for sale. The difficulty was that the other 4 lots he is applying for are side to side and back to back. This one lot has no abutting property to meld with. He is presenting these lots together because if he came in independently, he could qualify for consent, but the others would not qualify unless he came back month after month with each lot being presented separately. These lots will have 1400 -1600 square foot homes. We shall meet all of the criteria for setbacks. There is enough room for septic and all other requirements for the zoning. Lots 15, 16, 19 and 20 are owned by the same individual. Lot 6 is owned separately.

Mr. Goff made a motion to approve the request.

Mr. Pennington seconded the motion.

The vote was 5 – 0 to approve the requests.

The Board now considered items 10, 11, 12, and 13 from Atlantic Development.

Dr. Buchanan asked Mr. McDonald what made these four requests different from the request for Lot 6 that was just approved.

Mr. McDonald stated that the difference was that the lots now being considered are multiple lots owned by the same person. There is an opportunity to combine property and bring lots into compliance with the code. Policy FLU 3.2 clearly indicates that this shall be done in dealing with antiquated plats. When there is an opportunity to combine lots and negate

the need for a variance, that is desired according to this policy. The staff recommendation is not the same as the applicant's request.

Mr. Bushrui reiterated that the circumstances for these four lots is different, due to the ownership by one person who has the ability to combine them.

Mr. McDonald agreed.

Mr. Goff asked if all of the other lots in the area were of similar size.

Mr. Lance stated that they were.

Mr. Goff stated that the hardship in these cases would be that we are requiring the owner to create lots that far out-price adjacent the immediate area lots.

Mr. Lance concurred. He stated that building a house on double lots would bring in a property that far exceeds the average selling price in the neighborhood. He said that the county cannot force a land owner to sell two lots at a time. If he came back on 4 successive months with each lot being presented separately, he could get approval.

Mr. McDonald stated that such a circumstance would not be true. If the lots applied separately, with the owner still being the same for the adjacent parcels, the Staff recommendation would still be for denial.

Mr. Goff stated that if the ownership were transferred to family members, then the request could possibly be approved.

Mr. McDonald stated that such would be the case, but in the instances under consideration here now, there is an opportunity to combine lots and bring the parcels into conformity without variances being needed.

Mr. Goff stated that there is a way around this if the owner takes the time to transfer titles and such. Because he is trying to do the entire operation in one meeting, the County will not accommodate the owner.

Mr. Lance stated that Lot 6 is adjacent to another lot owned by the same owner, but it was not included in the request just heard and approved by the Board, because it is not for sale. Clearly, this is not very fair.

Mr. Bushrui pointed out that the Staff is working with the County Code. It is not being arbitrary.

Mr. Rozon asked what lot had a structure on it.

Mr. Lance stated that Lot 19 had a structure on it that was going to be demolished.

Mr. Bushrui stated that if you combine these lots, it would be difficult to have all conforming lots. You could wind up with a 50 foot lot.

Mr. Goff stated that Lot 19 already had had a building on it, with permits and all. Lots 19 and 20 are therefore different from the others.

Mr. Goff made the motion to approve the granting of the variances on the four lots.

Dr. Buchanan seconded the motion.

Mr. Pennington stated that the County is penalizing someone who is buying undersized lots. We should not penalizing someone for trying to make some money on these lots.

Mr. Rozon stated that someone would be living in the houses and paying taxes to the county.

Mr. McDonald pointed out that there were instances in the neighborhood of houses occupying more than one lot.

Mr. Pennington stated that the County should not penalize someone for owning old lots.

Mr. Bushrui stated that you cannot penalize someone for buying lots in good faith years ago.

The vote was unanimous to approve the granting of the variances on items 11, 12, 13, and 14.

14. SANDALWOOD HOMES - Cassa Villa Heights (lot 5); A-1 (Agriculture); minimum lot size variance from 43,560 square feet to 8,250 square feet; (2) minimum lot width variance from 150 feet to 75 feet; (3) front yard setback variance from 50 feet to 25 feet; and (4) side yard setback variances from 10 feet to 7.5 feet; located on the

south side of Cass Avenue approximately 377 feet west of the intersection of Cass Avenue and Palm Drive; (BV2002-166)

District 2 – Morris Earnest McDonald, Principal Coordinator

- 15. SANDALWOOD HOMES** - Cassa Villa Heights (lot 6); A-1 (Agriculture); minimum lot size variance from 43,560 square feet to 8,250 square feet; (2) minimum lot width variance from 150 feet to 75 feet; (3) front yard setback variance from 50 feet to 25 feet; and (4) side yard setback variances from 10 feet to 7.5; located on the south side of Cass Avenue, approximately 452 feet west of the intersection of Cass Avenue and Palm Drive. (BV2002-167)

District 2 – Morris Earnest McDonald, Principal Coordinator

Mr. McDonald stated that his recommendation was for denial of the side yard setback variances because the lots could be combined as discussed previously. This would avoid the necessity of a variance. The other variances were recommended for approval by staff.

Mr. Pennington asked about the character of the neighborhood.

Mr. McDonald stated that the street was generally undeveloped.

Dr. Buchanan stated that if the lots were combined for Lots 5 and 6, one would have to do that for all of them.

Mr. McDonald stated that the goal was to combine lots to bring the lot size up to the code.

Michael Schultz with Sandalwood Homes spoke about the lots. He said that the lots were never agricultural. He said that 30 by 50 foot houses would be inconsistent with R-1 zoning. He is speaking for the owner, Mr. C. W. Mann. He stated that the lot had already been given a lot size variance. Mr. Mann had given him a letter giving approval.

Mr. McDonald stated that staff had not been able to find any variances on the lot.

Dr. Buchanan stated that if the variance had previously been granted it would effect the other variances.

Mr. Rozon asked about the two lots.

Karen Consalo stated that the two lots should be considered separately for motions.

On Lot 5: Mr. Rozon made a motion to approve the requests.

Mr. Goff seconded the motion.

The vote was 4 – 1 in favor of the granting of the variances. Mr. Bushrui voted against.

Mr. Rozon made a motion to approve the granting of the variances for Lot 6.

Mr. Goff seconded the motion.

The vote was 4 – 1 in favor of the motion. Mr. Buchrui was the dissenting vote.

- 16. EDWIN R. MOBLEY** - 550 Lynchfield Ave; R-1 (Single-Family Dwelling); front yard setback variance from 25 feet to 12 feet for a canopy; located on the west side of Lynchfield Avenue, approximately 238 feet north of Citadel Street. (BV2002-175)

District 3 – Van Der Weide

Kathy Fall, Senior Planner

Kathy Fall introduced the request by Mr. Mobley for an existing canopy. Staff recommendation was for denial.

Edwin Mobley stated that he had built the structure by himself. His garage parking is inadequate, so he built this.

Dr. Buchanan asked why he did not get permits.

Mr. Mobley stated that he did not know about setbacks and permits.

No one spoke in favor of the application.

Diana Rivera of 485 Citadel Drive spoke in opposition. She stated that the structure was not in keeping with the neighborhood, which had been on the upswing, with many homes being renovated and repaired. She stated that this structure did not appear to belong there. She stated that Lot 10, a corner lot, had been completely renovated, as had several others.

Mr. Mobley stated that he had lived there for 35 years. He would bring the structure up to code and put lattice work on the sides.

Mr. Pennington stated that a front yard has an impact on the neighborhood. He made a motion to deny the request.

Dr. Buchanan seconded the motion to deny.

The vote was 5 – 0 to deny the request.

- 17. MARY BAIRD** - 3213 Timothy St; R-1A (Single-Family Dwelling); rear yard setback variance from 30 feet to 15 feet for an addition; north side of Timothy Street, approximately 200 feet east of Martex Drive. (BV2002-177)

District 3 - Van Der Weide

Kathy Fall, Senior Planner

Kathy Fall stated that staff recommendation was for denial.

Ms. Baird said that she had decided to make an addition to the house. She was going to try to have an enclosed area for use in the backyard. She would like to go back 13 feet.

No one spoke from the audience.

Mr. Goff made the motion to approve the request.

Dr. Buchanan seconded the motion.

The vote was 5 – 0 to approve the request.

- 18. CRAIG BAIR** - 143 Crescent Blvd; R-1AA (Single-Family Dwelling); side yard setback variance from 10 feet to 2 feet for an accessory building; located on the east side of North Crescent Blvd., approximately 123 feet north of 2nd Street. (BV2002-162)

District 5 – McLain

Kathy Fall, Senior Planner

Kathy Fall stated that Staff recommendation was for denial. If approved, she requested that the variance should be granted to the structure detailed in the site plan.

Craig Bair stated that he wanted the structure for storage. The structure would be hidden by fences. The dimensions would be 18 by 10.

Mr. Goff made a motion to approve the request.

Dr. Buchanan seconded the motion.

The vote was 5 – 0 in favor of the request.

Mr. Pennington requested that the minutes be considered next month. The meeting was adjourned at 11:00 P.M.

